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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,792	01/03/2001	Kurosh Samari-Kermani	20000426.ORI	1961
23595 7590 02/06/2008 NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH SUITE 820 MINNEAPOLIS, MN 55402			EXAMINER POPOVICI, DOV	
			ART UNIT 2625	PAPER NUMBER
			MAIL DATE 02/06/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/753,792

Applicant(s)

SAMARI-KERMANI, KUROSH

Examiner

Dov Popovici

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-22 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-18 and 21-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Dov Popovici
DOV POPOVICI
PRIMARY EXAMINER
ART UNIT 2625

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/05/2007 has been entered.

Election/Restrictions

Claims 19 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 3/27/2007.

Applicant's election with traverse of the restriction requirement in the reply filed on 3/27/2007 is acknowledged. The traversal is on the ground(s) that there is no processing data as the examiner indicates as the difference between species I and species II. This is not found persuasive because the restriction is based on the invention that requires "processing the received medical data to comply with DICOM" and the invention that does not require "processing the received medical data to comply with DICOM." Claim 15, line 6, clearly is claiming "processing the received medical data to comply with DICOM". However, the examiner agrees with applicant's position that no

medical data is being processed in the set of claims of claims 19 and 20. Accordingly, claims 19 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

Claim 21 is objected to because of the following informalities:

In claim 21, lines 3 and 5, the claimed recitation of "patent" should be --patient--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 17, the claimed limitation of "creating multiple backup jobs until all backup data is assigned to a backup job" is subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 16, 18, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelanek in view of Murray et al (US 5,721,891), Koritzinsky (US 6,988,074), Kahle (US 5,518,325) and Laney et al (US 6,366,966).

Regarding claims 15, 16, 21 and 22: Pelanek teaches a medical data recording method (see fig. 1) comprising: receiving medical data (32 received medical data from 30, see fig. 1), extracting patient identification information (see column 5, lines 40-62) and study information from the medical data (column 5, lines 40-45, column 5, lines 25-30; note, the patient information would be supplied by image source 58) received and storing the patient identification information and study information, adding medical data to a job folder (directory, column 5, lines 49), creating a job file (the collection of data that is being sent to the CD writer, see fig. 3, and see fig. 4) and storing it (in the archive station 32), submitting the job file to the CD writer, burning a DISC with the data produced by the job file (see column 4).

Pelanek does not specifically mentions optionally deleting the job file and the job data.

The examiner is taking "Official Notice" that it is well known in the art to delete file(s) and/or data.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Pelanek system to optionally deleting the job file and the job data.

It would benefit Pelanek because Pelanek's hard drive or memory would run out of storage space and/or memory space, if the created files stored in the hard drive would never be deleted. Therefore, by optionally deleting the job file and job data, more memory space can be made available to process other data and store other data, while improving system performance, such as system speed and storage, can be greatly improved with less stored data or files.

Pelanek does not teach a timer detects a pause in a data stream to select the end of the data transmitted to the computer for each job.

Murray, in the same area of transmitting data, teaches a timer (column 2, lines 30-35) detects a pause (column 2, lines 40-50) in a data stream to select the end of the data transmitted.

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek to include: noting the end of the received medical data by a time out period for each patient.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek system by the teaching of Murray because of the following reason(s): (a) it would improve the system of Pelanek by detecting the end of data transmitted, as taught by Murray at column 1, hence, each patient medical record can be separated by a time out period, and thus, this will prevent medical data from getting mixed up between different patients.

Pelanek does not specifically specifies what kind of imaging standard is used for presenting his/her medical images, therefore a person with ordinary skill in the art would need to rely on other references for imaging standard of presenting the medical images.

Koritzinsky, in the same area of medical images, teaches that DICOM is widely used for data presentation in the medical field.

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek to include: processing the received medical data to comply with DICOM standards and to include the system file(s) for DICOM (DICOM inherently contains system file(s) for data presentation) in the directory/job folder. (Note that Pelanek teaches storing information using directory).

It would have been obvious to one person having ordinary skill in the art at the time the invention was made to have modified Pelanek by the teaching of koritzinsky to include processing the received medical data to comply with DICOM standards and to include the system file(s) for DICOM, so that all users of the network or received medical data can comply with the DICOM standards and for providing compatibility

among all users, network and received medical data; and (b) it would allow the stored images or the received medical data to be view by other medical systems.

Pelanek does not specifically specifies viewing software, print template file, and print template merge file for printing a template, using an autoloader, on the DISC.

Laney, in the same area of viewing data stored in a CD, on a computer, teaches recording software on the medium for viewing the data stored thereon on a computer (see column 3, lines 15-65).

Kahle teaches a print template file (see the title, and see column 7, lines 1-5) and a print template merge file (form, see column 7, lines 1-4) for printing a template on the DISC (see column 7, lines 55-60).

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek to include: recording software on the medium for viewing the data stored thereon on a computer.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek by the teaching of Laney because viewing data stored in a CD on a computer and recording software on a medium for viewing the software would provide the user with a greater ease of using the computer as taught by Laney at column 1, lines 10-42.

It would also have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek by Kahle to include a print template file and a print template merge file in the directory of computer of Pelanek and

a autoloader for receiving the print job file/collected data for printing a template on the DISC.

It would also have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek by Kahle because it would provide a system for printing on disk immediately before and/or after it is recorded, without requiring the manual writing of information; and the product quality and integrity as well as improved production cycle time can be assured; as taught by Kahle, column 1, lines 40-50).

Regarding claim 18: Pelanek teaches backing up the patient data on a DISC if desired (inherently properties of storing data on a DISC, also see column 3, lines 43-45).

Response to Arguments

Applicant's arguments filed 11/5/2007 have been fully considered but they are not persuasive.

With respect to applicant argument that on page 9, line 21 to page 10, line 4 and in fig.6 the specification teaches "creating multiple backup jobs until all back up data is assigned to a back up job," has been considered.

In reply to the argument, page 9, line 21 to page 10, line 4, discloses "backup job is created" (see page 9, line 31) and "backup disc for the database files" (see page 9, line 25). However, the claimed recitation of **"creating multiple backup jobs until all backup data is assigned to a backup job"** is subject matter which was not described

in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

With respect to applicant's argument that applicant amended the application to make it clear that the patient information being extracted is the patient identity information and not patient imaging information as in Pelanek, and applicant is concerned with obtaining patient identity information for automatically printing such information on the discs for identification of the discs in patient files, applicant is working with DICOM standards in extracting the patient ID information which the prior art does not do, claims 15 and 16 data is automatically extracted from the information on a disc and printed on the disc which is not found in Pelanek. The arguments have been fully considered, but they not found to be persuasive because of the following reason(s):

Figure 1 of Pelanek teaches the archive station received medical images from a medical image source 30 and store in a buffer 52 (see column 5, lines 34-45). Buffer 52 is capable of storing at least (it implies) two long patient study cases (see column 5, lines 59-62). Pelanek further teaches a CD is used to record a patient's case study (see column 5, lines 50-57 and see column 1, lines 1-15). Therefore, the patient and his or her study information must be extracted from the data from at least two patients received and stored in buffer storage 52.

Furthermore, Pelanek discloses that the user enters the patient's name, ID number, etc. into the archive station 32 by user input device 44, if this information

cannot be supplied via the XEM motion image source interface 58. This information is merged with the image data and written by CD writer 60 to the CD 10. This feature allows the elimination of preparing the lead letters and the identification x-ray exposure. Part of this information will be included in the header information written to the CD 10 as well as the file directory of the CD 10 contents (see column 5, lines 42-50).


In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., applicant is concerned with obtaining patient identity information for "automatically printing" such information on the discs for "identification of the discs in patient files", applicant is working with "DICOM standards in extracting the patient ID information" which the prior art does not do, claims 15 and 16 "data is automatically extracted from the information on a disc and printed on the disc" which is not found in Pelanek) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dov Popovici whose telephone number is 571-272-4083. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Coles can be reached on 571-272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Dov Popovici
Primary Examiner
Art Unit 2625